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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,009	07/25/2003	Bruce Berry	1058.001	3711

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EXAMINER

NGO, LIEN M

ART UNIT PAPER NUMBER

3727

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/627,009

Applicant(s)

BERRY, BRUCE

Examiner

LIEN TM NGO

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4, 5 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 4 and 21, it cannot be determined what is a first of the rectangular surfaces and the other the rectangular surfaces.

In claim 5 and 21, "Velcro" is a trademark term.

In claim 21, "the tote" lacks antecedent basis.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 6, and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Young (4,650,073). Young discloses, in figs 1 and 2, a container comprising front and rear rectangular surfaces, the front surface including a reinforced opening 14, and the rear surface coupled to an attachment arrangement 22 with an eyelet 24.

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5. Claims 1, 2, 6, 11, 15 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Francois (FR. 2824,050). Francois discloses, in fig. 7, a container comprising front and rear rectangular surfaces, the front surface including an opening 3b, and the rear surface coupled to an attachment arrangement 3e with an eyelet 3f.

6. Claims 1, 2, 4, 5, 8-11, 17 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Hanson (4,119,249). Hanson discloses, in figs. 1 and 2, a container comprising front and rear rectangular surfaces, the front surface including an opening 47, the rear surface coupled to an attachment arrangement 25 with a loop; a flap 20 with Velcro material; and two pockets

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3, 15, 16, 18, 19, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanson. It have been obvious to one having ordinary skill in the art at the time was made to make the opening being diamond-shaped, at least the front and rear surfaces from material or color as claimed, since such modification would have involve a mere change of a matter of obvious design choice for shapes, color and material.

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9. Claims 6- 8, 14 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanson in view of Casparian (D 477,864).

Casparian teaches an attachment arrangement comprising an eyelet (fig. 3), a ring, a loop and a thigh strap. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Hanson container with an attachment arrangement as claimed, as taught by Casparian, in order to facilitate of securing the container to a person and a work area.

10. Claims 25-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanson in view of Casparian and further in view of Hancock (2,881,947).

Hancock teaches tie wraps being dispensed in a container from a side opening. Hanson in view Casparian teaches a container comprising limitations substantially as claimed, which is capable of storing and dispensing tie wraps from a side opening. Therefore, it would have been obvious to one having ordinary skill in the art to use the container Hanson in view of Casparian to store the tie warps, as taught by Hancock, for facilitating of dispensing the tie wraps. The container of Hanson in view of Casparian is capable of performing the steps as claimed.


11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-

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4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NATHAN NEWHOUSE can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
for  
LIEN TM NGO  
Primary Examiner  
Art Unit 3727

July 6, 2005

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